

PTO/SB/30 (04-07)

Approved for use through 09/30/2007. OMB/0651-0031

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Request for Continued Examination (RCE) Transmittal

Address to:
Mail Stop RCE
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

| | |
|------------------------|-------------|
| Application Number | 09/412,140 |
| Filing Date | 10/5/1999 |
| First Named Inventor | Clive Smith |
| Art Unit | 2615 |
| Examiner Name | Tran, Con P |
| Attorney Docket Number | 1062-104.US |

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1.

Submission required under 37 CFR 1.114

Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).

a.

☐

Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.

i.

☐

Consider the arguments in the Appeal Brief or Reply Brief previously filed on _____

ii.

☐

Other _____

b.

☒

Enclosed

i.

☒

Amendment/Reply

iii.

☐

Information Disclosure Statement (IDS)

ii.

☐

Affidavit(s)/ Declaration(s)

iv.

☐

Other _____

2.

Miscellaneous

a.

☐

Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of _____ months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)

b.

☐

Other _____

3.

Fees

The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.

The Director is hereby authorized to charge the following fees, any underpayment of fees, or credit any overpayments, to Deposit Account No. _____ I have enclosed a duplicate copy of this sheet.

i.

☒

RCE fee required under 37 CFR 1.17(e)

ii.

☒

Extension of time fee (37 CFR 1.136 and 1.17)

iii.

☐

Other _____

b.

☒

Check in the amount of \$ 905 mailed 9-7-07 enclosed

c.

☐

Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

| | | | |
|---|-------------------------|------------------|--------|
| SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED | | | |
| Signature | | Date | 9/7/07 |
| Name (Print/Type) | Clive Smith (Applicant) | Registration No. | |

| | | | |
|--|-------------|------|--------|
| CERTIFICATE OF MAILING OR TRANSMISSION | | | |
| I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450 or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below. | | | |
| Signature | | | |
| Name (Print/Type) | Clive Smith | Date | 9/7/07 |

This collection of information is required by 37 CFR 1.114. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.
If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



In the United States Patent and Trademark Office
FAX TRANSMISSION

Pages (including this page): SIXTEEN (16)

| | |
|--|--|
| Applicant: Clive Smith | Examiner: Con P Tran |
| Serial No.: 09/412,140 | Art. Unit: 2615 |
| Filing Date: 10/05/99 | Our Reference: 1062-104.US |
| For: "Medical Device with Communication, Measurement and Data Functions" | |
| | Date: September 7 th , 2007 |

Commissioner for Patents
Fax: 571-273-8300

Sir:

This is in response to the Office Action mailed March 7th, 2007 as well as a response to discussion with Examiner.

The Examiner is advised that a Petition for a 3 month extension and a Request for Continued Examination are attached to this fax. The fee for both 3 month extension (\$510) and RCE (\$395) has been separately mailed today.

The following contents are included in this communication:

- CLAIM AMENDMENTS
- REASONS FOR ALLOWANCE
- RESPONSE TO EXAMINER REMARKS CLAIMS 20-36
- SUPPORT FOR AMENDED CLAIM 19 IN THE SPECIFICATION
- REQUEST FOR CONTINUED EXAMINATION WITH EXTENSION
- PETITION FOR 3 MONTH EXTENSION

COPY

Claim 19 has been amended as discussed with Examiner September 6th, 2007. As discussed, we have now narrowed this claim and provided very specific language for this invention. Other claims have been amended or withdrawn in response to Examiner's Remarks Office Action March 7th, 2007.

Reasons for allowance are then presented. Discussion of reasons for allowance in light of KSR Int'l Co. v. Teleflex, Inc., No. 04-1350 (U.S. Apr. 30, 2007) are included. It is proposed that KSR provides even stronger support in favor of allowance.

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PTO/SB/22 (04-07)

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PETITION FOR EXTENSION OF TIME UNDER 37 CFR 1.136(a)

Docket Number (Optional)

FY 2006

(Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).)

1062-104-US

Application Number 09/412,140

Filed 9-7-07

For MEDICAL DEVICE WITH COMMUNICATION MEASUREMENT & DATA FUNCTIONS

Art Unit 2615

Examiner CON P TRAN

This is a request under the provisions of 37 CFR 1.136(a) to extend the period for filing a reply in the above identified application.

The requested extension and fee are as follows (check time period desired and enter the appropriate fee below):

| | Fee | Small Entity Fee | |
|--|--------|------------------|--------|
| <input type="checkbox"/> One month (37 CFR 1.17(a)(1)) | \$120 | \$60 | \$ |
| <input type="checkbox"/> Two months (37 CFR 1.17(a)(2)) | \$450 | \$225 | \$ |
| <input checked="" type="checkbox"/> Three months (37 CFR 1.17(a)(3)) | \$1020 | \$510 | \$ 510 |
| <input type="checkbox"/> Four months (37 CFR 1.17(a)(4)) | \$1590 | \$795 | \$ |
| <input type="checkbox"/> Five months (37 CFR 1.17(a)(5)) | \$2160 | \$1080 | \$ |

☒ Applicant claims small entity status. See 37 CFR 1.27.

☒ A check in the amount of the fee is enclosed: mailed 9-7-07 via US mail.

☐ Payment by credit card. Form PTO-2038 is attached.

☐ The Director has already been authorized to charge fees in this application to a Deposit Account.

☐ The Director is hereby authorized to charge any fees which may be required, or credit any overpayment, to Deposit Account Number I have enclosed a duplicate copy of this sheet.

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

I am the ☒ applicant/inventor.

☐ assignee of record of the entire interest. See 37 CFR 3.71-3.73
Statement under 37 CFR 3.73(b) is enclosed (Form PTO/SB/96)

☐ attorney or agent of record. Registration Number

☐ attorney or agent under 37 CFR 1.34.
Registration number if acting under 37 CFR 1.34

Signature

9-7-07

Date

CLIVE SMITH

Typed or printed name

303-521-5023

Telephone Number

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below.

☐ Total of 1 forms are submitted.

This collection of information is required by 37 CFR 1.136(a). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 6 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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